

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUSTIN GARDNER,

Petitioner,

vs.

SCOTT R. FRAKES,

Respondent.

4:21CV3067

MEMORANDUM AND ORDER

This matter is before the court on Petitioner's Motion for Leave to Appeal in Forma Pauperis. (Filing 32.) Petitioner filed a Notice of Appeal (filing 30) and Supplemental Notice of Appeal (filing 31) on April 8, 2022. Petitioner appeals from the court's Memorandum and Order and Judgment dated February 22, 2022 (filings 26 & 27), in which the court dismissed his habeas petition with prejudice, and the court's March 31, 2022 Memorandum and Order (filing 29) granting Petitioner an extension of time to file a notice of appeal.

As set forth in Federal Rule of Appellate Procedure 24(a)(3):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding

The court finds that because Petitioner proceeded IFP in the district court, he may now proceed on appeal in forma pauperis without further authorization.

IT IS THEREFORE ORDERED that Petitioner's Motion for Leave to Appeal in Forma Pauperis (filing 32) is granted.

Dated this 12th day of April, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge